

## **CITY COUNCIL RULES FOR QUASI-JUDICIAL PROCEEDINGS (2015 Rules)**

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## **I. APPLICABILITY AND PURPOSE**

- A. The purpose of these rules is to establish procedures for quasi-judicial actions before the City Council and to implement the Appearance of Fairness Doctrine, Revised Code of Washington (RCW) Chapter 42.36.
- B. Pursuant to Seattle Municipal Code (SMC) Chapter 23.76, the following Type IV Land Use Decisions, along with any integrated decision to exercise substantive State Environmental Policy Act (SEPA) authority and any associated Type II land use decisions listed in subsection 23.76.006.C.2, are governed by these rules:
  - 1. A Council conditional use;
  - 2. An amendment to the Official Land Use Map, except for an area-wide amendment or a correction of an error on the Official Land Use Map due to a cartographic or clerical mistake;
  - 3. Approval of a property use and development agreement (PUDA) that is required as a condition of rezone approval, or an amendment of a PUDA that represents a major departure from the terms of the prior decision, pursuant to Section 23.76.058;
  - 4. Major institution master plan adoption, a major amendment to a major institution master plan, or renewal of a major institution master plan development plan component pursuant to Chapter 23.69;
  - 5. A public project as defined in Section 23.84A.030 that requires City Council approval.
- C. The following quasi-judicial actions are also governed by these rules:
  - 1. An amendment to a PUDA that was required as a condition of rezone approval that represents a minor departure from the terms of the PUDA, pursuant to Section 23.76.058;
  - 2. A request to extend a Type IV Land Use Decision pursuant to Section 23.76.060;
  - 3. An appeal of an individual's final assessment for a Local Improvement District pursuant to Section 20.04.090;
  - 4. An appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark pursuant to Section 25.12.630;
  - 5. An appeal of the Director of Housing's decision to deny an application for a multifamily housing property tax exemption pursuant to Section 5.73.060;

6. Other action that is quasi-judicial or subject to the Appearance of Fairness Doctrine as defined in these rules.

D. All references to Chapters and Sections in these rules are to the SMC unless stated otherwise. In case of conflict between these rules and the SMC, the SMC controls.

## **II. DEFINITIONS**

A. “Appearance of Fairness Doctrine” refers to the provisions of RCW chapter 42.36.

B. “Appellant” means a person who submits an appeal of a Hearing Examiner’s recommendation or decision on a quasi-judicial action covered by these rules, or an appeal of the Director of Housing’s decision to deny an application for a multifamily housing property tax exemption.

C. “Certificate of Service” means a signed sworn statement that a document has been either mailed by first class mail or emailed on the date stated in the certificate to the persons named at the addresses listed in the certificate.

D. “Committee” means the City Council committee charged with making recommendations on a quasi-judicial action.

E. “Ex parte communication” means any direct or indirect communication between a Councilmember and a proponent, opponent, or party of record that is made outside a Council hearing or meeting considering a quasi-judicial action and that concerns the merits of the quasi-judicial action pending before the City Council.

F. “Party of record” means:

1. any person who appeals a recommendation or decision in a quasi-judicial action;
2. the City agency making a recommendation, decision or determination on a quasi-judicial action and any of its employees or agents, except that the Hearing Examiner is not a party of record;
3. the owner(s) of the property subject to the quasi-judicial action;
4. any person who filed an application for a permit or development approval that is the basis for the quasi-judicial action;
5. any person granted party status through intervention at the Hearing Examiner proceeding or during the City Council quasi-judicial proceeding; and
6. for an extension of a Type IV Land Use Decision or a minor amendment to a PUDA, any person who commented to the Department of Planning and Development (DPD)

on the request for extension or minor amendment.

- G. “Pending” means the period of time during which a quasi-judicial action is under consideration by the Council. For purposes of these rules, a quasi-judicial action is considered to be under consideration by the Council beginning when the matter is date-stamped by the City Clerk, which for actions based upon a Hearing Examiner recommendation is pursuant to subsection IV.E of these rules. A quasi-judicial action remains under consideration before the Council until the final termination of all judicial appeals of the Council decision in the quasi-judicial matter.
- H. “Person” means an individual, partnership, corporation, entity, association, or public or private organization of any character.
- I. “Quasi-judicial action” or “quasi-judicial matter” means an action of the City Council that determines the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial action does not include a legislative action adopting, amending, or revising a comprehensive, community, or neighborhood plan; zoning regulation; other land use planning document; or area-wide amendment to the Official Land Use Map.
- J. “Quasi-judicial proceeding” means the procedure by which Council considers a quasi-judicial action.
- K. “Record, procedural” means the procedural and pre-hearing documents and materials filed with the City Clerk and considered by the Council that are not part of the substantive record, and the disclosures of ex-parte communications placed on the record as required by RCW chapter 42.36 and these rules.
- L. “Record, substantive” means the Hearing Examiner’s record as supplemented by the Council pursuant to these rules, including the transcript or recording or both of the hearing before the Hearing Examiner, the exhibits admitted into evidence, and the other documents in the Hearing Examiner proceeding; or, for an appeal of a denial of an application for a multifamily housing property tax exemption by the Director of Housing, the exhibits and other documents compiled by the Director of Housing in denying the application; or, for a minor amendment to a PUDA or a request to extend a Type IV Land Use Decision, the materials submitted to DPD and the DPD recommendation, and any additional information used by the Council.

- M. “Valid” means submitted in compliance with all requirements of the SMC and these rules.

### **III. APPEARANCE OF FAIRNESS**

- A. While a quasi-judicial action is pending before Council, no member of the City Council may engage in an ex parte communication.
- B. If an ex parte communication occurs, then:
1. The Councilmember shall, either orally or in writing, place in the procedural record the substance of any such ex parte communication; and
  2. The Councilmember shall make a public announcement at each meeting or hearing on the quasi-judicial action of the content of any such ex parte communication and the right of parties of record to rebut the substance of the communication. As one means of accomplishing this, the Council may announce at each meeting or hearing that there has been an ex parte communication, that a written summary of such communication is available, and that the parties of record have an opportunity to rebut the substance of the communication.
- C. The prohibition against ex parte communication does not preclude a member of the Council from questioning the parties of record concerning matters in the record during the meetings or hearings before the Council on the quasi-judicial action.
- D. Anyone seeking to rely on the appearance of fairness doctrine to disqualify a Councilmember from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the person. If the basis was known or reasonably should have been known prior to the issuance of a decision and was not raised prior to the issuance of the decision, it may not be relied on to invalidate the decision.
- E. If a Councilmember is challenged for violating the appearance of fairness doctrine or for bias or prejudice, the Councilmember shall respond on the record by either:
1. Agreeing with the challenge and disqualifying himself or herself from acting on the quasi-judicial matter. The disqualified Councilmember may not vote and may not participate in the hearing and deliberation process, even if not voting. In addition, the disqualified Councilmember should not discuss the merits of the proposal with other Councilmembers; or
  2. Disagreeing with the challenge and:

- a. Stating on the record why the Councilmember believes that there has been no violation of the appearance of fairness doctrine; or
  - b. Stating on the record why the Councilmember believes that he or she is not biased or prejudiced.
- F. If a challenge to a Councilmember would cause a lack of a quorum or would result in an inability to obtain a majority vote as required by law, any such challenged Councilmember is permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the Councilmember publicly discloses the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine.

#### **IV. GENERAL PROCEDURES**

- A. The Council may refer any quasi-judicial action to the appropriate Council committee to review the merits of the action and to make a recommendation to the full Council.
- B. If a committee is authorized to make a ruling or determination on a procedural matter, the committee chair may make that procedural ruling or determination, or may refer such ruling or determination to the committee for discussion and vote.
- C. A document required to be filed with the City Clerk pursuant to these rules shall be filed by hard copy. If the City Clerk receives a mailing after a deadline, even if the mailing is postmarked on the day of the deadline, the mailing will not be considered as having met the deadline.
- D. A notice, request, reply, or response to someone other than the City Clerk may be sent by either first class mail or electronic means, depending on the means of transmittal authorized or indicated by the recipient.
- E. If the quasi-judicial proceeding includes a Hearing Examiner recommendation or decision, the date reflected in the City Clerk's date-stamp is one of the following:
  - 1. The date notice of the application for a Type IV Land Use Decision listed in subsection I.B of these rules is filed by DPD with the City Clerk, pursuant to Section 23.76.040.
  - 2. The date the Hearing Examiner's or designated officer's decision on the final assessment roll for a Local Improvement District is filed with the City Clerk.
  - 3. The date the Landmark Preservation Board recommendation on controls and

incentives for a designated Seattle landmark about which the owner and Board staff are unable to reach an agreement is filed with the City Clerk.

- F. If the last day of a period specified by these rules is a Saturday, Sunday, or federal or City holiday, the deadline runs until 5 p.m. on the next day that is not a Saturday, Sunday, or federal or City holiday.
- G. When calculating the number of days that a notice or motion must be provided prior to a committee meeting or hearing, the day after the notice or motion is provided is the first day of the period, and the day of the meeting or hearing is the last day of the period.
- H. Time requirements in these rules are strictly applied.
- I. A motion is limited to 20 double-spaced pages, excluding declarations, exhibits, attachments, and appendices.

## **V. PROCEDURES BEFORE COMMITTEE ACTION**

### **A. Appeals.**

#### **1. Who May File an Appeal**

- a. An appeal of a Hearing Examiner's recommendation on any Type IV Land Use Decision, including any associated Type II land use decision and any integrated decision to approve, condition, or deny based on substantive SEPA authority, may be filed by any person who submitted a written comment to the DPD Director or an oral or written comment to the Hearing Examiner on the matter.
- b. An appeal of an individual's final assessment for a Local Improvement District may be filed only by a party who made a timely protest at the initial hearing, pursuant to Section 20.04.090.D. Failure to file an appeal does not limit use of the judicial appeal process under RCW 35.44.200.
- c. An appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark may be filed only by a party of record to the Hearing Examiner process.
- d. An appeal of the Director of Housing's decision to deny an application for a multifamily housing property tax exemption may be filed only by the applicant.

#### **2. Filing Deadline for an Appeal**

- a. An appeal of the Hearing Examiner's recommendation on a Type IV Land Use Decision must be filed with the City Clerk by 5 p.m. of the 14th calendar day

following the date of the Hearing Examiner's recommendation.

- b. An appeal of an individual's final assessment for a Local Improvement District must be filed with the City Clerk by 5 p.m. of the 14th calendar day following the date of the Hearing Examiner's or designated officer's decision.
  - c. An appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark must be filed with the City Clerk and served on all other parties of record by 5 p.m. of the 14th calendar day after the Hearing Examiner's decision is served on the party appealing.
  - d. An appeal of the Director of Housing's denial of an application for a multifamily housing property tax exemption must be filed with the City Clerk by 5 p.m. of the 30th calendar day following the receipt of the denial.
3. Form and Content of Appeal. An appeal shall be in writing and:
- a. Clearly identify specific objections to the recommendation or decision;
  - b. Specify the relief sought;
  - c. For an appeal of an individual's final assessment for a Local Improvement District, state clearly on the cover or cover page the number of the Local Improvement District and the appellant's name, and shall comply with Section 20.04.110; and
  - d. If desired, include a request to supplement the record, pursuant to subsection V.B. of these rules.
4. Rejection or Clarification of Appeal.
- a. The Council may reject an appeal that does not comply with the form and content requirements.
  - b. The Council may request clarification of an appeal. Council staff will provide the request for clarification to:
    - i. The parties of record for an appeal of the Hearing Examiner's recommendation on a Type IV Land Use Decision;
    - ii. The parties of record for an appeal of the Hearing Examiner's recommendation for controls and incentives for a designated Seattle landmark;
    - iii. Those persons who were provided written notice of the Director of Housing's



decision for an appeal of the denial of a multifamily housing property tax exemption;

iv. The appellant for an appeal of an individual's final assessment for a Local Improvement District, and the City Attorney.

c. Any response from the appellant must be filed, along with a certificate of service, with the City Clerk and copies provided to those who received a copy of the request for clarification by 5 p.m. of the 10th calendar day after copies of the request for clarification were provided by Council staff.

5. Circulation of appeal.

a. Upon receipt of a valid appeal, Council staff will provide notice of the appeal to the following persons, and shall complete a certificate of service to be included in the Clerk File for the matter:

i. those persons who were provided written notice of the Hearing Examiner's recommendation for an appeal of a Type IV Land Use Decision, or of the Hearing Examiner's recommendation for controls and incentives for a designated Seattle landmark;

ii. those persons who were provided written notice of the Director of Housing's decision for an appeal of the denial of a multifamily housing property tax exemption;

iii. the appellant for an appeal of an individual's final assessment for a Local Improvement District, as well as the City Attorney.

b. Notice must be provided at least 21 calendar days prior to the date the committee is to consider the matter.

c. The notice shall include:

i. A copy of each appeal;

ii. Instructions for filing a response, including a list of the parties of record on whom any response and certificate of service must be served;

iii. If a request to supplement the record has been filed, a copy of the request to supplement the record and instructions for responding; and

iv. Notice of the first committee meeting at which the matter will be considered.

6. Response. Only a party of record may respond to an appeal. Any response must be

- filed, along with a certificate of service, with the City Clerk and copies provided to the other parties of record, by 5 p.m. of the 10th calendar day after the notice of appeal was provided by Council staff.
7. Reply. Any reply from a person who filed an appeal must be filed with the City Clerk, along with a certificate of service, and copies provided to the other parties of record, by 5 p.m. of the 7th calendar day after the response was filed with the City Clerk.
- B. Request to Supplement the Record on an Action other than an Extension of a Type IV Land Use Decision, a Minor Amendment to a PUDA, or an Appeal of an Individual's Final Assessment for a Local Improvement District.
1. Filing a Request to Supplement the Record. A request to supplement the record may be filed only by a party of record or as part of a motion to intervene, and must be filed with the City Clerk, along with a certificate of service, no later than:
- If an appeal has been filed, the deadline for filing a reply; or
  - If no appeal is filed, 28 calendar days after the Hearing Examiner provides copies of the recommendation or decision on the quasi-judicial action.
2. Form and Content of a Request to Supplement the Record.
- A request to supplement the record shall be in writing, and:
    - include a brief description of the nature of and a copy of the evidence proposed to be added; and
    - explain how the evidence proposed to be added meets the standard for supplementation, i.e., why it was not available or could not reasonably have been produced at the time of the open record hearing before the Hearing Examiner, or, for an appeal of a denial of an application for a multifamily housing property tax exemption, at the time the Director of Housing denied the application for the exemption.
  - Testimony proposed to be added to the record must be presented by affidavit, by declaration conforming to the standards of RCW 9A.72.085, or in a transcript.
  - A request to supplement the record must be submitted as either:
    - a separate section of an appeal, a response, a reply, or a motion to intervene; or
    - a separate document attached to an appeal, a response, a reply, or a motion to

intervene; or

iii. if no appeal has been filed, a separate document.

3. Circulation of a Request to Supplement the Record.

- a. If a request to supplement the record is filed with an appeal that is valid, Council staff will provide it together with the appeal to the same persons to whom Council staff provides notice of the appeal pursuant to subsection V.A.5.a of these rules, along with instructions for responding to the request to supplement the record.
- b. If a request to supplement the record is filed at some other time but by the deadline provided in subsection V.B.1 of these rules, the person filing the request must also provide a copy of the request and a certificate of service to those to whom the Hearing Examiner provided copies of the recommendation or decision.

4. Response to Request to Supplement the Record. A response may be filed by a party of record or any person who filed a pending motion to intervene. Any response must be filed together with a certificate of service with the City Clerk and copies provided to the other parties of record and to any person who filed a motion to intervene, by 5 p.m. of the 10th calendar day after the request to supplement the record was provided as required by subsection V.B.3 of these rules.

5. Content of Response. A response to a request to supplement the record shall be in writing and address the standard for supplementation described in subsection V.B.2.a.ii of these rules.

6. Reply. Any reply must be in writing and be filed along with a certificate of service with the City Clerk and copies provided to the other parties of record and to any person who filed a motion to intervene, by 5 p.m. of the 7th calendar day after the response was filed. A reply must respond only to the arguments made in any response and not raise new issues.

C. Motions in a Proceeding other than an Extension of a Type IV Land Use Decision or a Minor Amendment to a PUDA.

1. Motion to Intervene in an Action Other Than an Appeal of an Individual's Final Assessment for a Local Improvement District.

- a. If a valid appeal has been filed, then a person may file a motion to intervene to participate in a quasi-judicial action as a party of record. The motion may not be

filed before notice of an appeal is provided according to subsection V.A.5 of these rules. The motion may be filed no later than the deadline for filing a reply to the appeal. The motion to intervene shall be in writing and be filed along with a certificate of service with the City Clerk, with copies provided to parties of record. The motion to intervene must state the basis for intervention and how the person making the request is affected by or interested in the quasi-judicial action, and must include any request to supplement the record.

- b. In considering a motion to intervene, the committee shall consider:
    - i. whether the motion to intervene shows a substantial or significant interest in the quasi-judicial action that is not otherwise adequately represented by a party of record;
    - ii. whether intervention can be accomplished without unduly delaying the proceeding or prejudicing the rights of any party of record; and
    - iii. whether the person filing the motion either participated in the Hearing Examiner proceeding, or failed to do so because he or she was unable to do so.
  - c. If it grants a motion to intervene, the committee may limit the nature and scope of the participation, including the issues the intervenor may address.
2. Other Motions. Any other motion may be filed by a party of record. Such a motion shall be in writing and be filed along with a certificate of service with the City Clerk no later than 28 calendar days after the Hearing Examiner or Director of Housing provides copies of the recommendation or decision on the quasi-judicial action. The person filing the motion must send a copy of the motion together with a copy of the certificate of service to those persons who were provided written notice of the Hearing Examiner's recommendation or decision, or, for an appeal of the denial of a multifamily housing property tax exemption, of the Director of Housing's decision.
  3. Response. Any response to a motion shall be in writing, and be filed by a party of record along with a certificate of service with the City Clerk, and copies provided to the other parties of record, by 5 p.m. on the 10th calendar day after the motion was filed. If the response is to a motion to intervene, the party filing the response shall also provide a copy of the response and certificate of service to the person who filed

the motion to intervene.

4. Reply. The person who filed a motion may file a written reply with the City Clerk along with a certificate of service, with copies provided to the other parties of record, by 5 p.m. of the 7th calendar day after the response was filed with the City Clerk. A reply must respond only to the arguments made in any response and not raise new issues.

## **VI. COMMITTEE ACTION**

- A. The committee shall schedule time at a committee meeting to consider the quasi-judicial action. For an appeal of an individual's final assessment for a Local Improvement District, the committee shall, within 15 days following the filing of the appeal with the City Clerk, set the time and place for the hearing on the appeal.
- B. Notice.
  1. Unless some other time is required by law, Council staff shall provide notice of each committee meeting at which a quasi-judicial action is to be considered to the parties of record, and to any person who filed a pending motion to intervene, as follows:
    - a. at least 21 calendar days prior to the first meeting; and
    - b. at least 7 calendar days prior to any subsequent meeting; and
    - c. at least 21 calendar days prior to the first meeting at which a DPD Director or Hearing Examiner recommendation on a remanded quasi-judicial action is discussed.
  2. For an application for a minor PUDA amendment or an extension of a Type IV Land Use Decision, Council staff shall provide notice of the committee meeting at which the action is to be considered to the applicant, those who commented to DPD on the application, and those who requested notification of Council meetings on the matter, at least 21 calendar days prior to the first meeting, and at least 7 calendar days prior to any subsequent meeting. The notice shall state that written comments will be accepted, and that oral comments may be permitted at the first meeting.
- C. Committee Consideration of the Quasi-judicial Action. At a committee meeting, the committee will take the following actions, except that subsections VI.C.1 and VI.C.2 of these rules do not apply to a minor amendment to a PUDA or a request to extend a Type IV Land Use Decision:

1. Consider and decide any request to supplement the record. The committee, at its discretion, may permit a person who submitted a request to supplement the record, and any party of record who submitted a response, to orally address the committee concerning whether the evidence proposed to be added meets the standard for supplementation set forth in subsection V.B.2 of these rules. If the committee permits, each person generally will be allowed 5 minutes to address the committee, unless there are extraordinary circumstances, in which case the committee shall determine the amount of time to allow. The committee may:
  - a. Deny the request to supplement the record;
  - b. Determine that the evidence proposed to be added to the record meets the standard for supplementation set forth in subsection V.B.2 of these rules, and grant the request to supplement in whole or part. If the committee votes to supplement the record:
    - i. each document or exhibit so added shall be labeled as a Council exhibit, with consecutive letters [A, B, . . .Z, AA, etc.]. The name of the party submitting the exhibit shall be noted on the label; and
    - ii. the committee shall also decide whether to recommend that the Council remand the matter to the Hearing Examiner or Director of Housing. The Council may remand the matter only if it determines that the recommending or decision-making agency should reconsider the application in light of the new evidence or material.
2. Consider and decide any motion, including a motion to intervene. In ruling on any motion, the committee may, in its discretion, permit the person who made the motion and any person who submitted a response to orally address the committee concerning the motion. If the committee permits, each such person will generally be allowed 5 minutes to address the committee, unless the committee determines there are extraordinary circumstances, in which case the committee shall determine the amount of time to allow.
3. Consider the merits of the proposed action and vote on a recommendation to full Council.
  - a. The committee, in its discretion, may hear oral argument from:

- i. any person who submitted an appeal;
  - ii. any person who submitted a response; and
  - iii. any person who was permitted to intervene.
- b. For a minor amendment to a PUDA or a request to extend a Type IV Land Use Decision, the committee will accept written comments, and may permit oral comments at the first meeting, from the applicant and any person who submitted comments to DPD on the proposed amendment or extension or who requested notification of Council meetings on the matter.
- c. Oral argument or comment, if permitted, must be based on the evidence in the record.
- d. If oral argument or comment is permitted, each person will generally be allowed 5 minutes, unless there are extraordinary circumstances, in which case the committee shall determine the amount of time to allow. The party who filed an appeal goes first and may reserve a portion of time for rebuttal. The committee may ask questions or extend the time for argument at the discretion of the committee chair.
- e. After the oral argument or comment, if allowed, the committee may discuss the merits and vote at this meeting on its recommendation to the Council, or it may continue consideration of the matter to a subsequent committee meeting to discuss the merits and vote.
- f. The committee may recommend:
  - i. that the Council approve, approve with conditions, modify, or deny the quasi-judicial action; or
  - ii. that the Council remand the application if it has voted to supplement the record and determines that the Hearing Examiner, DPD, Department of Neighborhoods (DON), or Director of Housing should reconsider the application in light of the new evidence; or
  - iii. that the Council remand the application for additional information or a new proposal or both, only for a major institution master plan, an amendment to a major institution master plan, or renewal of a major institution master plan development plan component.

4. Site visit. A Councilmember may visit the location of a quasi-judicial proposal to better understand the evidence in the record, but a Councilmember shall not make any findings, conclusions, or decisions based on information learned during a site visit, and shall not go onto private property without the permission of the owner. A Councilmember shall not engage in ex parte communication during a site visit.
5. Standard of Review.
  - a. In any quasi-judicial action, the Council shall apply applicable law and the decision shall, except as specified in subsection VI.C.5.b of these rules or unless otherwise specified by law, be supported by substantial evidence in the record.
  - b. For an appeal of an individual's final assessment for a Local Improvement District, the Hearing Examiner's or designated officer's decision shall be accorded substantial weight and the burden of establishing the contrary is upon the appealing party. The Council may adopt or reject, in whole or in part, the findings, recommendations, and decision of the Hearing Examiner or designated officer or make such other disposition of the matter as is authorized by RCW 35.44.100 and SMC Section 20.04.090.B.

## **VII. PREPARATION AND TRANSMITTAL OF COMMITTEE RECOMMENDATION TO COUNCIL**

- A. Preparation of Recommendation. After the committee votes on a recommendation, Council staff shall prepare:
  1. proposed findings of fact and conclusions of law and a proposed decision for Council based on the committee's recommendation;
  2. a report explaining each position, proposed alternative findings and conclusions, and a proposed decision based on the record for each position, if the committee vote is divided; and
  3. an ordinance and any related documents, if an ordinance is required.
- B. Transmittal of Committee's Recommendation to Council. Council staff shall make the documents listed in subsection VII.A of these rules available to the Council prior to any vote.
- C. Introduction of Ordinance. If an ordinance is required, it shall be introduced according to Council procedures, except that it does not require Councilmember sponsorship.



- D. Execution of PUDA. Any PUDA or amendment to a PUDA shall be executed by all legal and beneficial owners of the property that is the subject of the contract rezone prior to any Council vote.

## **VIII. COUNCIL ACTION**

- A. The Council shall make its decision based solely on the evidence in the record.
- B. No public comment addressing the merits of a quasi-judicial action is permitted at any Council meeting. If public comment does occur, the substance of the comment may not be considered by the Council in making its decision.
- C. The Council may approve, approve with conditions, modify, remand, or deny the quasi-judicial action. The Council may remand the application only if:
1. the committee voted to supplement the record and determined that the Hearing Examiner, DPD, DON, or Director of Housing should reconsider the application in light of the new evidence; or
  2. for a major institution master plan, an amendment to a major institution master plan, or renewal of a major institution master plan development plan component, the committee determined that there is need for additional information or a new proposal or both.
- D. The Council shall adopt written findings of fact and conclusions to support its decision.
- E. Council decisions.
1. Decisions on the following quasi-judicial actions are made by ordinance:
    - a. An amendment to the official land use map;
    - b. An amendment to a PUDA;
    - c. Adoption of, or a major amendment to, a major institution master plan, or renewal of a major institution master plan development plan component;
    - d. An appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark; and
    - e. An extension of a Type IV Land Use Decision originally adopted by ordinance.
  2. Decisions on the following quasi-judicial actions are not made by ordinance:
    - a. A Council conditional use;
    - b. A public project approval;
    - c. An appeal of an individual's final assessment for a Local Improvement District;

- d. An appeal of the Director of Housing's denial of an application for a multifamily housing property tax exemption; and
  - e. An extension of a Type IV Land Use Decision not originally adopted by ordinance.
- F. The Council's decision on a Type IV Land Use Decision, to the extent such information is available to the Council, shall contain the name and address of the owner of the property, of the applicant, and of each person who filed an appeal with the Council, unless such person abandoned the appeal or such person's claims were dismissed before the hearing.
- G. If the Council remands a proposed new or amended major institution master plan or the renewal of a major institution master plan development plan component, Council staff will send to the major institution the request for additional information or a new proposal or both on the issue that was not adequately addressed.

## **IX. ACTIONS AFTER COUNCIL DECISION**

- A. Transmittal of Council Decision.
- 1. The City Clerk shall prepare a letter of transmittal to accompany the findings of fact, conclusions, and decision. The letter shall state the time and place for seeking judicial review. The Council's decision is issued, for purpose of seeking judicial review pursuant to the Land Use Petition Act, on:
    - a. the date that the Council passed the ordinance for decisions made by ordinance; or
    - b. the date three days after a copy of the decision is transmitted by the City Clerk for decisions not made by ordinance.
  - 2. The City Clerk shall promptly provide the letter of transmittal and a copy of the Council's findings of fact, conclusions, and decision to:
    - a. For a Type IV Land Use Decision, an appeal of an individual's final assessment for a Local Improvement District, or an appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark: the Hearing Examiner and all parties of record.
    - b. For an appeal of the Director of Housing's denial of an application for a multifamily housing property tax exemption, a minor amendment to a PUDA, or an extension of a Type IV Land Use Decision: all parties of record.

- B. Shoreline Reclassification. For a shoreline environment reclassification, DPD shall file a copy of the Council's findings, conclusions, and decision with the State Department of Ecology. A shoreline environment reclassification is not effective until approved by the Department of Ecology.
- C. Recording of PUDA. The City Clerk shall record any executed PUDA with the King County Recorder as soon as practicable, and no later than 30 days after the passage of the ordinance.
- D. Local Improvement District. The City Clerk shall file the original Council decision in the record of the Local Improvement District.

#### **X. EFFECT OF COUNCIL DECISION**

- A. The Council's decision is final and conclusive unless the Council retains jurisdiction. Unless the decision is reversed or remanded on appeal, the Director of DPD, DON, Director of Housing, and other departments are bound by the Council's decision and shall incorporate the terms and conditions of the Council's decision in any permit issued to the applicant or in approved plans.
- B. No ordinance confirming an assessment roll for a Local Improvement District shall be enacted by the Council until all appeals to the City Council about the assessment roll are decided.

#### **XI. MAINTENANCE OF RECORD OF QUASI-JUDICIAL PROCEEDING**

The City Clerk shall maintain the official record of the Council's decision in a quasi-judicial matter. The following documents shall be included in the official record of a quasi-judicial Council action addressed by these rules:

- A. If there is one, the Hearing Examiner's record, including exhibits, and recordings and transcripts of hearings. However, the City Clerk shall maintain oversize exhibits only for a period of three months after the Council's decision, or, if a judicial appeal is filed, until such time as the judicial appeal is resolved. After the three months or the resolution of any judicial appeal, the City Clerk may substitute photographs of oversize exhibits for the oversize exhibits and may destroy the oversize exhibits unless the party who submitted the oversize exhibits requests that they be returned.
- B. Any evidence admitted by the Council to the substantive record as a result of a request to supplement the record;

- C. For a minor amendment to a PUDA or a request to extend a Type IV Land Use Decision, the materials submitted to DPD and the DPD recommendation, and any additional information used by the Council;
- D. The Council's procedural record; and
- E. The Council's findings, conclusions, and decision.